

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

JANETT GONZALEZ,

Plaintiff,

v.

THE CHILDREN'S PLACE, et al.,

Defendants.

Civil No. 06-1254 (JAF)

O R D E R

Plaintiff, Janett González, brings the present diversity action against Defendants, The Children's Place; The Children's Place Barbados, Inc.; PMA Corporate Services, Inc. ("PMA"); the unnamed owners of The Children's Place; and various unnamed insurance companies, alleging violations of Articles 1802 and 1803 of the Puerto Rico Civil Code, 31 L.P.R.A. §§ 5141-42 (1991 & Supp. 2004), when, allegedly due to negligence, a six-foot long metal pole fell and struck her in the face while she shopped at The Children's Place's Guaynabo, Puerto Rico, location while she was vacationing on the island. Docket Document No. 1. On April 24, 2006, PMA moved to dismiss, arguing that it cannot be liable for the damages alleged in Plaintiff's complaint because its only relationship to The Children's Place is as its resident agent in Puerto Rico, viz., to receive summons and complaints against the store. Docket Document No. 5.¹

¹PMA also asked this court to award it relevant costs and attorney's fees, Docket Document No. 5, but later withdrew that request. Docket Document No. 17.

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1 Rather than oppose PMA's motion, Plaintiff moved to voluntarily
2 dismiss PMA from her complaint on May 22, 2006. Docket Document
3 No. 16. Plaintiff requested that the dismissal be entered without
4 prejudice under Rule 41(a) of the Federal Rules of Civil Procedure,
5 however, so that she may bring PMA back into the action should
6 discovery reveal that it can, in fact, be held jointly liable for the
7 accident.² Id.; FED. R. CIV. P. 41(a) (1992 & Supp. 2005). We **GRANT**
8 Plaintiff's motion, and dismiss PMA from her complaint **without**
9 **prejudice and without the imposition of costs and attorney's fees.**
10 Partial judgment shall be entered accordingly.

11 **IT IS SO ORDERED.**

12 San Juan, Puerto Rico, this 1st day of June, 2006.

13 S/José Antonio Fusté
14 JOSE ANTONIO FUSTE
15 Chief U.S. District Judge

²Plaintiff's motion suggested, for instance, that PMA's corporate filings with the Department of State indicate that it is more than just The Children's Place's resident agent.